

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF NEW YORK**

DERRICK PALMER, KENDIA  
MESIDOR, BENITA ROUSE,  
ALEXANDER ROUSE, BARBARA  
CHANDLER, and LUIS  
PELLOT-CHANDLER,

Plaintiffs

v.

AMAZON.COM, INC. and  
AMAZON.COM SERVICES LLC,

Defendants.

DECLARATION OF DERRICK  
PALMER

I, Derrick Palmer, hereby declare as follows:

1. I have worked for Amazon.com Services LLC (“Amazon”) since on or around July 24, 2015. I have worked at the JFK8 warehouse facility in Staten Island, New York (“JFK8”) since October 2018. Previously, I worked for Amazon at its facility in Robbinsville Township, New Jersey from July 2015 until Amazon transferred me to JFK8 in October 2018.

2. JFK8 is an 840,000 square foot sortable fulfillment center operated by Amazon where products are received and sorted, and customer orders are picked, packed, and shipped out to Amazon sortation centers, delivery stations, and eventually Amazon customers.

3. I work as a Warehouse Associate, Picking Master, Process Guide and Ambassador in the Pick, Count, Floor-Health (PCF) department at JFK8. I currently earn \$19.45 per hour. For a little over two months, until June 1, 2020, Amazon had been paying me an additional \$2 per hour in “hazard pay” for working during the pandemic.

4. As a Picking Master, I pick customer orders. This entails checking inventory and touching items that have been touched by other people.

5. I also am regularly and closely interacting with the roughly 40 members of my team in my role as a Process Guide where I staff, coach and advise other warehouse associates in my department.

6. As an Ambassador, I train new Associates and re-train experienced associates on how to do their jobs.

7. From the end of March through the present, I have worked ten and a half hour shifts at the JFK8 warehouse two or three days a week.

8. On March 24, 2020, I learned from another coworker that a JFK8 employee had tested positive for COVID-19. My coworker told me that managers informed him that they were not planning to notify all the workers in the facility about the positive case, but would tell anyone who needed to know.

9. I was first notified by Amazon of a positive case in JFK8 in a text message I received on the morning of March 30, 2020. This message said that this particular worker was last in JFK8 on March 24, 2020.

10. Since March 30, 2020 I have received more than 20 text messages from Amazon alerting me to additional cases of COVID-19 in the facility and to my knowledge, dozens of workers at JFK8 have been out sick with symptoms of COVID-19 to date.

11. As recently as May 30, 2020, I received a text message from Amazon indicating that there were “additional confirmed cases of COVID-19 at JFK8.”

12. To my knowledge, at least 2 workers at the JFK8 warehouse have died from COVID-19.

13. To my knowledge, at least 4 household members of a JFK8 worker infected with COVID-19 have also contracted the virus.

### **Amazon’s Inadequate Response to the COVID-19 Pandemic**

14. I am afraid for my health and safety, as well as the health and safety of people I am in contact with, and the larger community because of the way in which Amazon is managing the warehouse in response to COVID-19.

15. Despite the huge number of workers passing through the facility on a daily basis, Amazon took little in the way of precautions during the early weeks of the pandemic.

16. Although we have always had access to work gloves in the facility, Amazon did not provide latex gloves until on or around the week of April 3, 2020, when latex gloves were placed in a bin at the front of the facility, without any instructions as to when or how they should be worn.

17. Initially, Amazon did not provide masks to its workers and only recommended that workers wear “a facemask of some kind” during their shifts. Amazon claimed that it did have limited quantities of masks, but I was never able to secure a mask from Amazon until the week of April 6, 2020, when it provided masks at the front of the building for all workers.

18. Amazon did not have a mandatory mask policy until the middle of April, and even then, it was not consistently enforced. I still see workers without masks covering their mouths or noses on a daily basis.

19. For example, on May 20, 2020, I witnessed a worker in the pick department at JFK8 who was working without a mask for at least 5 hours and on June 3, 2020 I saw a worker that was allowed into the building without a mask.

20. To my knowledge, Amazon did not make significant changes to its sanitation procedures in March, despite the increasing number of COVID-19 cases in New York City.

21. Throughout March, parts of the facility that are used by many Amazon employees, such as the bathrooms, were not cleaned more frequently. During my time at JFK8, the conditions in the bathrooms have ranged from unclean to disgusting, and it was not until May that I noticed improved sanitation in the bathrooms.

22. The facility operates 24 hours a day, 7 days a week, and there is no down-time for substantial cleaning of the facility between shifts. Over the last two months, Amazon has gradually increased its cleaning of the break rooms and the cafeteria at the warehouse, but as far as I can tell they are using roughly the same sized cleaning staff as they did before the pandemic.

23. To my knowledge, Amazon still does not routinely clean employee work stations, which are used by multiple workers over the course of each day. Instead, Amazon provides disinfecting wipes for employees to use, but provides no instruction on how to best use the wipes.

24. The disinfecting wipes containers are empty at many stations.

25. Sometime in April 2020, hand sanitizer stations were placed in JFK8. Very quickly the hand sanitizer ran out in these stations and Amazon has not been able to keep them filled. I have repeatedly gone to a hand sanitizer station only to find it empty.

26. Through the month of March, Amazon had not made any significant changes to the cafeteria or the break rooms to maintain social distancing. Workers were unable to maintain the recommended six-foot social distancing while in the cafeteria and long lines for the microwaves, vending machines, and food vendors were common. Some managers would attempt to tell workers to remain six feet away from one another, but it was virtually impossible to do so in the space.

27. In early April, Amazon began using zip ties to regulate the number and location of the chairs in the cafeteria. Amazon removed some tables from the cafeteria and break rooms and moved them to places throughout the facility to try to encourage social distancing. I have observed that few workers use those tables during their breaks, as many of them are close to loud machinery and conveyor belts which operate throughout the breaks.

28. Amazon also removed about half of the microwaves from the cafeteria, but employees are still often close to each other while waiting in line for an available microwave and the machines are not cleaned between uses.

29. Restrooms and hallways at JFK8 are very crowded. This is particularly true at the start and end of the shift in the hallway where we clock in and clock out and go through the turnstiles.

30. On March 31, 2020, Amazon informed workers that they would begin checking all workers' temperatures prior to their shifts. However, these checks are inconsistent and do not appear effective.

31. For example, on April 3, 2020 I entered the facility at around 8:30 a.m. and did not have my temperature checked. Nearly three hours later, after going on a break and interacting with many of my co-workers, I received a message on the computer at my station informing me that I would need to get my temperature checked.

32. Currently, Amazon is using a camera system that supposedly checks workers' temperatures, but as of today I have never seen a worker pulled out of line for having a fever and we don't even stop walking as we enter the building.

33. Amazon has never asked me any health screening questions about COVID-19 symptoms or about my contact with someone who has tested positive for COVID-19.

34. My shifts at JFK8 last 10 ½ hours with one unpaid 30-minute break for lunch and two 20-minute paid breaks. I work during the day shift at the facility, Wednesdays through Saturdays, from 7:15 a.m. until 5:45 p.m. There are no breaks between shifts and there is usually additional congestion near the front of the building at the end of shifts with arriving and departing workers in the same space.

35. Normally, I am scheduled to work four shifts a week, but during busy times Amazon institutes a policy called mandatory extra time ("MET") when workers are expected to work five shifts each week. Sometimes during MET, the length of shifts is increased to 11 hours.

36. During two weeks in March, Amazon instituted MET due to the increased customer demand and the number of workers who were not in the facility due to the

pandemic. On March 18, 2020, I received a text message from Amazon reminding me that I would be on MET for the week of March 22, 2020. Amazon told me that “more than ever our customers are relying on us.” Amazon told me to “report ALL absences” so there would be “no issues.” I felt additional pressure to come into work during MET.

37. It was not until on or around the last week of March 2020 that Amazon began staggering break times to try to limit the number of people in the cafeteria and the break rooms. To my knowledge, it was not until on or around May 1, 2020 that Amazon shifted my start time, breaking my shift into three groups so that instead of all starting and ending our shifts at the same time, our start times are staggered by 15-minute increments.

38. For example, my schedule was changed from 7:15 a.m. until 5:45 p.m. to 7 a.m. until 5:30 p.m.

39. But even with this staggered schedule, I am in close quarters with approximately 30 other workers at crowded times during my shift when it begins.

### **Amazon’s “Unpaid Time” Policy**

40. In addition to providing workers with paid time off (“PTO”) which accrues at a rate of 1 hour of PTO for every 30 hours worked, up to 48 hours a year, Amazon provides us with unpaid time (“UPT”) that we can use to excuse us from a shift or part of a shift. Every quarter, Amazon gives us 20 hours of UPT and we can check our PTO and UPT balances in the Amazon A to Z app.

41. If we need to miss a shift or part of a shift, we can apply any existing PTO we have to the missed hours. Amazon also will deduct time from our UPT balance if we

miss or are late to a shift. For example, if I am 6 minutes late to a shift, Amazon will deduct one hour from my UPT.

42. It is also important to maintain a balance of UPT because if your UPT gets below zero that is grounds for automatic termination. I know many workers who have lost their jobs because of a UPT balance of less than zero.

43. In early March, Amazon introduced a new unlimited UPT policy whereby workers could take UPT at any time, in any amount, and not face any disciplinary actions.

44. I occasionally used the unlimited UPT to limit my shifts during the months of March and April because I was worried about contracting COVID-19 at JFK8 and was worried about bringing COVID-19 home to my partner, Kendia Mesidor.

45. I also used my unlimited UPT to self-stagger my start times so that I would be able to arrive to work after the morning rush.

46. I know many workers who used the unlimited UPT to reduce their working hours because they were afraid for their own safety coming to a facility they believed was a vector for the spread of COVID-19. I also know workers who used the unlimited UPT to stay home because they were worried about bringing COVID-19 home from JFK8 and spreading it to people in their household.

47. On April 24, 2020, I got a text message from Amazon informing me that the unlimited UPT policy would be ending on May 1, 2020 and that the original UPT policy would come back into effect. Many workers were upset at this news, but on May 1, 2020 Amazon reinstated the old UPT policy and workers were forced to come to work or face termination if they did not have sufficient PTO or UPT to stay home.



48. After Amazon ended its unlimited UPT policy on May 1, 2020, there have been a lot more workers coming into the facility, so social distancing has become more difficult to maintain.

#### **Amazon's "Time off Task" Policy**

49. Amazon monitors the amount of time that I and other workers spend on and off task. I use a handheld scanner to do my job when I'm counting items, and a stationary scanner when I'm picking items, and Amazon uses software to monitor the degree to which the scanners are active. When I am working as a picker or a counter, every minute of my shift, except for my three daily breaks, is coded as "on task" or "off task" based on whether or not I have actively scanned items during those 60 seconds.

50. The minutes in which I have not scanned any items are collectively called my time off task ("TOT") and throughout the day Amazon adds up all my TOT. I am unable to see the amount of TOT I have accrued during a day while I am working and I am often anxious if I have technical problems with my equipment, need to use the bathroom, need to speak to a supervisor, or need to rest, because I am worried about accruing too much TOT.

51. I regularly have to run back to my station at the end of breaks and begin scanning to avoid getting TOT, and this makes it difficult to maintain safe social distancing.

52. Every day I see coworkers having to rush back to their stations at the end of breaks to avoid getting TOT.

53. If my TOT reaches 30 minutes in a day, not including paid breaks, I will get a written warning. If my TOT reaches one hour in a day, not including paid breaks, I will

get a final warning. If my TOT reaches two hours in a day, not including paid breaks, Amazon will terminate me.

54. If a manager or Process Assistant decides they want to, they can waive some of my TOT for certain things that happen during my shift, but I know the general rule is that bathroom breaks, even breaks to go wash my hands to protect myself from COVID-19, will not be waived.

55. If a worker gets four written warnings, the fourth warning becomes their final written warning.

56. Any warnings or write-ups given to a worker with a final written warning will result in termination.

57. I know many people who have had disciplinary action taken against them, or have been fired, because of TOT. My partner Kendia, who used to work at JFK8, was almost fired because of the TOT policy.

58. During the pandemic, I have been reluctant to take additional steps to wash my hands more frequently or to thoroughly clean my work station at the beginning or end of my shift, because I fear that time not spent working would count as TOT that could lead to discipline or termination.

59. Amazon has not provided any additional breaks for us to wash our hands or notified me of changes to their TOT policy to allow for more hand washing breaks or time for cleaning my workstation.

### **Amazon's Rate Requirements**

60. Amazon monitors the rate of work that I perform as a counter or picker, counted as the number of seconds per unit picked or units per hour. For example, I am asked to pick 400 items every hour. I am required to pick and count thousands of items every shift.

61. If I am unable to meet the rate that has been set, Amazon's system will automatically generate warnings and potentially termination for working slower than the set rate.

62. If a worker gets four written warnings, the fourth warning becomes their final written warning.

63. Any warnings or write-ups given to a worker with a final written warning will result in termination.

64. I know many people, especially older workers, who have had disciplinary action taken against them, or have been fired, because of failure to hit Amazon's rate requirements.

65. Although I am a hard worker, and my speed has increased over the nearly five years that I have worked for Amazon, I am still focused on maintaining a fast-enough rate.

66. Amazon also will push harder during peak times such as the weeks leading up to Christmas and the weeks around Amazon Prime Day to try to get us to work even faster. Managers go around to the pick stations throughout the day telling workers that they need to hit even faster rates.

67. Amazon has maintained very high rates during the pandemic due to an increased number of orders and because there were so many workers who were not coming into JFK8 to work.

68. I have been worried to take breaks to wash my hands or clean my work station because I am worried that my rate will drop too low and I will face disciplinary consequences including write-ups or termination.

### **Amazon's Failure to Alert Workers Exposed to COVID-19**

69. I believe Amazon has not taken sufficient steps to alert workers that they may have been exposed to COVID-19 at JFK8.

70. I have experienced this failure firsthand. I live in Elizabeth, New Jersey. I typically ride to work with my former co-worker Christian Smalls. On March 24, 2020, Christian Smalls told me that he learned from a manager that there was a worker who tested positive in the facility.

71. Christian Smalls and I left the facility early that day because we were worried about the risk of contracting COVID-19 and because we were angry that Amazon was keeping information from workers and refusing to take affirmative steps to protect us.

72. On March 26 and 27, 2020, Christian Smalls and I raised our concerns about workplace safety with the general manager of JFK8, the head of Human Resources ("HR") at JFK8, and other high-level managers. We asked them to shut down the facility for a deep cleaning, as Amazon had done in another facility in Queens, but were told that they were waiting to hear from the regional managers.

73. While we were in JFK8 on March 26, Christian Smalls told me that he got a text message from a friend and colleague who was one of my supervisors. She said that she had tested positive for COVID-19. She was last in the facility on March 24 and was showing symptoms that day. I had worked closely with her during the prior week while serving as her Process Guide. I had regularly been within six feet of her for extended periods of time in the course of my job duties.

74. After learning about the additional case in the facility, Christian Smalls and I spoke with several people from Amazon's HR department about the fact that we had been in close contact with her recently and said that we believed we needed to be quarantined. The HR managers told us that Amazon would be reviewing footage to determine if we met the standards for their quarantine policy and refused to put us on quarantine.

75. On March 28, 2020, Christian told me that Zachary Marc, a Senior Operations Manager, had placed Christian on quarantine due to his contact with my supervisor Barbara Chandler.

76. That day, I asked Marc if that meant that I would need to go on quarantine too, because I had also been in close contact with the employee who tested positive, but Marc said it was "just Smalls." I asked Marc if I needed to be on quarantine because I had been in close contact with Christian, and he said that I would need to wait to see if I heard from HR directly. Marc then walked Christian and me out of the building and Marc told Christian that he needed to leave JFK8.

77. Even though I rode in a car to work every day with Christian Smalls and was in close contact with another worker who tested positive, Amazon never informed me or contacted me about potential exposure to COVID-19.

78. On April 1, 2020, when I went to JFK8 for work, I went to the HR safety desk and told the woman working there that I had been in close contact with someone in the facility who tested positive. She left the table for a little while to confer with someone and when she returned she said that I had to leave the facility but would have to wait to hear from HR about quarantine.

79. I went out to my car and waited in the parking lot for about 15 minutes and then received a phone call from Tyler Grabowski, a manager from HR at JFK8. Grabowski explained to me that I would not receive quarantine due to exposure in JFK8 unless someone from Amazon reviewed surveillance footage and determined that I was in close contact with someone who tested positive.

80. I immediately went back into the facility, and straight to the HR office, to continue my conversation with Grabowski. He reiterated Amazon's policy that I could only get quarantine for close contact with someone in the facility who tested positive if Amazon determined I had met their threshold of close contact on the last day the COVID-positive person was in the facility. I explained that I had recently been in close contact with the person who tested positive, but Grabowski said that I would have to wait to see if I was contacted by HR following a review of the footage. Neither Grabowski nor anyone else from Amazon asked me any questions about the degree of contact I had with my infected supervisor.

### **Retaliation and Intimidation**

81. I believe that many workers are afraid that Amazon will fire them, which leads them to come to work even when they feel ill or have been exposed to sick people.

Workers are too worried about losing their jobs to raise concerns about Amazon's practices.

82. For example, Amazon regularly disciplines workers who speak out. I believe Amazon disciplined me for speaking out about my concerns.

83. During the week of March 23, 2020, I began speaking up about the problems with Amazon's response to the COVID-19 pandemic and expressed my concern for my health and safety and that of my coworkers and my community.

84. On March 30, 2020, I participated in a protest about Amazon's failure to implement adequate health and safety precautions to protect workers in the warehouse. On that day I never clocked in to work and I never entered the facility. I stayed in the parking lot and engaged in a safe, peaceful protest of Amazon's failure to protect its workers from COVID-19 by refusing to shut down the facility for a deep cleaning, for failing to provide personal protective equipment such as masks and gloves, and for failing to change its policies to allow workers to protect their health and safety on the job.

85. During the protest on March 30, 2020 I spoke to multiple press outlets about the dangers of working in the JFK8 facility due to Amazon's failure to protect its workers. I gave video interviews for both Spectrum News NY1 and NY PIX 11.

86. On April 6, 2020, I again participated in a protest about Amazon's failure to implement adequate health and safety precautions to protect workers in the warehouse. On that day, I never clocked in to work and I never entered the facility. I stayed in the parking lot and engaged in a safe, peaceful protest of Amazon's failure to protect its workers from COVID-19 by refusing to shut down the facility for a deep cleaning, for

failing to provide personal protective equipment such as masks and gloves, and for failing to change its policies to allow workers to protect their health and safety on the job.

87. On April 10, 2020 in the middle of my shift, I was called into the HR office where Grabowski and Marc were waiting for me. They informed me that I was receiving a final written warning for violating Amazon's social distancing policy on March 30, 2020. A final written warning means that any subsequent infraction, however minor, will result in termination.

88. I explained that I did not clock in on March 30, 2020 and had never entered the building, but Marc said that I had violated the policy and would be terminated. I asked him what the policy was and he said he would print it out for me along with my final written warning. After he spent about 10 minutes typing something on his computer, he came back with a document that explained the social distancing policy for within the facility. The policy had no penalties or consequences for violation.

89. Additionally, the final written warning had a date stamp that said it had been created that day, April 10, 2020, at 10:46 a.m. which was less than 10 minutes before I was called into their office.

90. I believe that I was retaliated against and given a final written warning because of my public criticism of Amazon's response to the COVID-19 crisis, because I was involved in organizing workers at JFK8, and because I spoke to the press about Amazon's failure to protect its workers.

91. Many workers, including myself, are fearful of losing our jobs, especially during this pandemic when businesses are closed and unemployment is at record high levels.



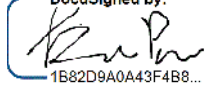
92. I fear what will happen to me if Amazon finds out I am participating in this lawsuit. I cannot afford to lose my job.

93. However, I am more fearful of the risks Amazon is creating for me and my partner, co-workers, friends, family and neighbors in New Jersey and New York City. I fear the risk of getting sick from COVID-19 at JFK8 due to the close contact I am forced to have with other workers. And I experience constant anxiety about infecting my partner, who I live with.

94. Thus, despite my fears of Amazon's reaction, I chose to be a Plaintiff in this case to protect myself and others.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Elizabeth, NY.

DocuSigned by:  
  
1B82D9A0A43F4B8...  
DERICK FARNICI

6/3/2020

Dated